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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 356 OF 2007
IN
CRIMINAL APPEAL NO. 271 OF 2007

Jagdish Digambar Khot ... Applicant
V/s
The State of Maharashtra ... Respondent

Mr. A.S. Khandeparkar i/by Khandeparkar & Associates for the applicant.

Miss R.M. Gadhvi, A.P.P. for the respondent State.

CORAM: D. G. DESHPANDE &
SMT. NISHITA MHATRE, JJ.

DATED: 3RD MAY, 2007.

P.C.:

1. This is an application for bail. Mr. Khandeparkar, advocate appears for the accused. The accused is convicted for murdering his wife. According to the testimony of PW-1, the accused twisted the neck of his wife. This is fully corroborated and supported by the evidence of the doctor because the doctor has found and stated that the dislocation of cervical vertebrae can occur because of twisting of neck. The witness PW-1, it appears to us, in simpleton "villager", could not foresee that the doctor would give his opinion about the condition of the deceased after performing the post-mortem examination.

2. The learned counsel Mr. Khandeparkar tried to contend that the deceased was suffering from hyper-tension and he was in the habit of falling down. He tried to place reliance upon the testimony of the son of the accused who was examined by the prosecution as prosecution witness. The witness was firstly declared hostile by the prosecution, he was cross-examined then by the prosecution and then the defence cross-examined him. Obviously, he was bound to support his father. Therefore, no reliance can be placed upon his testimony.

3. It was also tried to be contended that PW-1 is a neighbour of the deceased and that she was an inimical terms with the accused. In the alternative it was submitted that the accused was on bail during trial. None of the grounds are convincing. The method used by the accused to kill his own wife is per se cruel.

4. Application rejected.

5. The accused to prepare the paper-book at his own cost. Then his prayer for expediting the appeal can be considered.

(D.G. DESHPANDE, J.)

(SMT. NISHITA MHATRE, J.)